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ABSTRACT

This article attempts to bridge a perceived gap between legal education and education theory as well as the gap between academic counseling and independent learning by examining law school academic support programs. The article argues that a multidisciplinary analysis provides a helpful basis for evaluating academic support programs that address the problems of high risk and probationary college and law students. Part I introduces the problem by juxtaposing the ways in which law schools currently deal with high risk and probationary students with the ways in which many colleges and universities began dealing with such students regarding academic counseling programs at the undergraduate level and suggests that this research has direct applicability in the law school setting. Part III attempts to integrate academic counseling theory and independent learning theory. This section argues that academically troubled students frequently develop significant dependency relationships with their counselors. The dependency relationships help explain both the short term success of many academic counseling programs and the almost complete long term failure. Part IV suggests that several techniques of law school classroom teaching can help high risk and probationary students learn both substantive material and independent learning skills (JB)

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Law School Academic Support Programs

by
PAUL T. WANGERIN*

David Leonard, a legal educator, recently published a brief essay describing his efforts to counsel academically troubled law students and the empirical results of this particular academic support program.[1] Although the participating students showed minor short term grade improvement, no long term grade improvement occurred.[2] The counseled students were able to learn where they had gone wrong, and they gained self-confidence.[3] But in terms of grade improvement, the bottom line for academic counseling, Leonard's work proved rather disappointing.

Wildly different reactions to Leonard's essay, from wildly different groups of readers, seem likely. Legal educators who read about his work probably will throw up their hands in despair. They will conclude that little or nothing can be done about academically troubled students and that admission standards in law schools must be raised considerably if the law schools are to avoid problems with students like those Leonard tried to help. Undergraduate developmental and remedial educators who read Leonard's work or other recent information on law school academic

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* Associate Professor of Law, John Marshall Law School. I would like to thank a number of writers in the field of education theory who have commented on earlier versions of this essay. My thanks to Darrel Clowes, Garr Cranney, Patricia Cross, Thomas Devine, Janice Nisbet, Sherrie Nist, Steven Richards, and Norman Stahl. David Leonard, a legal educator, has given me many, many helpful suggestions for improving this work. I also would like to thank the participants in the AALS, ABA, LSAC "Access 2000" conference, and in the AALS 1989 Annual Convention "Mini-Workshop" on Law School Academic Support Programs for the helpful suggestions they made in response to presentations I gave at those functions. This work explores one aspect of a much larger work in progress, which analyzes both voluntary and involuntary "attrition" from graduate and professional schools and which describes practices for addressing these problems. This Article is the fourth in a series on legal education and education theory. *See* Wangerin, *Learning Strategies for Law Students*, 52 ALB. L. REV. 471 (1988); Wangerin, *Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education*, 62 TUL. L. REV. 1237 (1988); Wangerin, *Skills Training in "Legal Analysis": A Systematic Approach*, 40 U. MIAMI L. REV. 409 (1986).

1. Leonard, *Personal and Institutional Benefits of Offering Tutorial Services to Students Experiencing Academic Difficulty*, 37 J. LEGAL EDUC. 91 (1987). This piece provides only the barest details about the Indiana program.
2. *Id.* at 95.
3. Leonard, *supra* note 1, at 95.

support programs,[4] however, will have a totally different reaction: an overwhelming sense of *deja vu*. Is it necessary, these undergraduate educators will ask, for legal educators to reinvent the wheel?

This Article attempts to bridge part of the tremendous gap that currently exists between the fields of legal education and education theory and, in turn, the gap that exists between two branches of education theory: academic counseling[5] and independent learning.[6] The Article argues that a multidisciplinary analysis provides a helpful basis for evaluating academic support programs that address the problems of high risk[7] and probationary[8] college and law students because much of the work done in connection with undergraduate academic support programs is directly applicable in the law school setting.

Part I introduces the problem by juxtaposing the ways in which law schools currently deal with high risk and probationary students with the ways in which many colleges and universities began dealing with such students ten to twenty years ago. Part II then describes recent research regarding academic counseling programs at the undergraduate level and suggests that this research has direct applicability in the law school setting. Part III attempts to integrate the heretofore separate work of aca-

4. The Minority Affairs Committee of the Law School Admission Council (LSAC) has sponsored a considerable amount of work in connection with minority student admissions programs. For reports of the Council's work, see LAW SCHOOL ADMISSIONS COUNCIL, REPORT ON THE MINORITY ENROLLMENT CHALLENGE GRANT PROGRAM (1987) [hereinafter LSAC CHALLENGE GRANT PROGRAM REPORT]. *See also* LAW SCHOOL ADMISSIONS COUNCIL, SUMMARY REPORT ON THE LSAC QUESTIONNAIRE ON SPECIAL LAW SCHOOL PROGRAMS FOR MINORITY STUDENTS (1988) (describing academic support programs in law schools, only some of which relate to minority students) [hereinafter LSAC SUMMARY REPORT]; Ripps, *A Curriculum Course Designed for Lowering the Attrition Rate for the Disadvantaged Law Student*, 29 HOW. L.J. 457 (1986) (providing more detailed description of one LSAC challenge grant program, although wholly lacking in empirical data).

Another group of legal educators, who specialize in legal writing programs, also have done some work in connection with academic support programs. Regrettably, the work of these legal writing specialists has been almost completely independent of the minority admissions group. Furthermore, most published summaries of their work is purely anecdotal and is contained in newsletters that have little circulation outside of legal writing circles. *See, e.g.*, 2 Second Draft 3 (September, 1986) (newsletter of the Legal Writing Institute at the University of Puget Sound) (on file at *The Hastings Law Journal*); *see also* Association of American Law Schools, Newsletter of the Section of Legal Writing, Reasoning and Research (Nov. 1987) (describing the section's planned January 1988 program, "Support Programs in Legal Writing Curricula").

5. *See infra* notes 32-63 and accompanying text.

6. *See infra* notes 64-89 and accompanying text.

7. This Article uses the term "high risk students" to denote students whose academic credentials would not have gained them admission to the schools they attend but for special kinds of admission programs.

8. The term "probationary students" refers to students who receive unacceptable grades at the institutions they attend.

demic counseling theorists and independent learning theorists. This section argues that academically troubled students frequently develop significant dependency relationships with their counselors. These dependency relationships help explain both the short term success of many academic counseling programs and their almost complete long term failure. In conclusion, part IV suggests that several techniques of law school classroom teaching can use to help high risk and probationary students learn both substantive material and independent learning skills.

I. The Histories of Academic Support Programs in Higher and Legal Education

Not surprisingly, the recent movement in American law schools to create academic support programs in many ways resembles the historical developments that led to the creation of such programs in colleges and universities two decades ago. Beginning in the early 1960s, in an attempt to help students who performed poorly, teachers and administrators at numerous colleges and universities established remedial or developmental academic counseling programs for high risk and probationary students.[9] Initially, proponents of these programs thought that counselors simply should teach poorly performing students a number of study techniques.[10] Proponents thought academic performance would improve once students had good study skills.

Initial reports about the success of these undergraduate counseling programs presented quite positive pictures. Unfortunately, those initial reports proved to be terribly overstated. The early studies contained many methodological and interpretive problems. Careful research soon demonstrated that most undergraduate academic counseling programs brought only minimal success, at least in the area of grades.[11] Some commentators continue to question whether success is being achieved.[12]

Generally, however, the current news about the effect of undergraduate academic counseling programs is not nearly as grim as it was a decade or two ago.[13] In the late 1970s, Martha Maxwell provided one of the

9. Many programs initially were described as remedial. Faced with student resistance, however, the term "developmental" was adopted. For a discussion of substantive differences between remedial and developmental education, see Nist, *Developmental versus Remedial: Does a Confusion of Terms Exist in Higher Education Reading Programs?*, 8 J. DEVELOPMENTAL & REMEDIAL EDUC. 8-10 (1985).

10. *See* M. MAXWELL, IMPROVING STUDENT LEARNING SKILLS 22-24 (1979).

11. *See id.* at 22 (listing the researchers who so conclude).

12. *See, e.g.*, Behrman, Dark & Paul, *The Effects of a Structured Learning Skills Intervention on Long-Term Academic Performance*, 25 J. C. STUDENT PERSONNEL 326 (1984).

13. *See, e.g.*, Lauridsen, *At the End of the Bridge: The Freshman Year and Beyond*, in

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first hints of optimism when she noted that "some programs have emerged that show promise."[14] Later research confirmed Maxwell's optimism. This research, most notably that of John Roueche,[15] demonstrates that some undergraduate academic counseling programs have been at least somewhat effective.[16]

Similar events have occurred at the law school level. Recognizing that they have admitted numerous students who may experience academic difficulty, many law schools recently have established academic support programs.[17] Not surprisingly, early efforts at establishing such programs look very similar to efforts made twenty years ago at the undergraduate level. Furthermore, the early reports on these programs, like those on undergraduate programs, have been glowing.[18] Regrettably, virtually all of these law school programs have been established with little or no reference to the work done over the last twenty-five years by undergraduate educators.

The Council on Legal Education Opportunity (CLEO) Institutes[19] and the Law School Admissions Council (LSAC) Challenge Grant pro-

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NEW DIRECTIONS FOR COLLEGE LEARNING ASSISTANCE: SUMMER PROGRAMS FOR UNDERPREPARED FRESHMEN 97, 102-07 (K. Lauridsen & C. Myers 1982) (describing summer bridge program).

14. *See* M. MAXWELL, *supra* note 10, at 25.

15. *See* Roueche, *Elements of Program Success: Report of a National Study*, in NEW DIRECTIONS FOR COLLEGE LEARNING ASSISTANCE: A NEW LOOK AT SUCCESSFUL PROGRAMS 3 (J. Roueche ed. 1983). This essay summarizes a more comprehensive survey, J. ROUECHE, COLLEGE RESPONSES TO LOW ACHIEVING STUDENTS: A NATIONAL STUDY (1984). Roueche is a leading United States authority on academic counseling programs for university students.

16. This research has led to the widespread establishment of academic counseling programs in colleges and universities. *See* M. CAHALAN & E. FARRIS, COLLEGE LEVEL REMEDIATION 3 (Office of Educ. Research & Improvement, U.S. Dep't of Educ., FRSS Report No. 19, 1986) (90% of all colleges offer some type of counseling program).

17. For details regarding programs arguably related to academic support, see LSAC SUMMARY REPORT, *supra* note 4.

18. *See infra* notes 27-28 and accompanying text.

19. For an interesting history of legal education and black students see Bell, *Black Students in White Law Schools*, 2 U. TOL. L. REV. 539 (1970). Much information on affirmative action in law school admissions is contained in Henderson & Flores, *Implications for Affirmative Action after Bakke: Preliminary Analysis of Academic and Bar Performance of Council on Legal Education Opportunity Fellows, 1968-78*, in TOWARDS A DIVERSIFIED LEGAL PROFESSION: AN INQUIRY INTO THE LAW SCHOOL ADMISSION TEST, GRADE INFLATION, AND CURRENT ADMISSIONS POLICIES 13 (D. White ed. 1981); *see also* McKay, *What Law School Can and Should Do (And Sometimes Do)*, 30 N.Y.L. SCH. L. REV. 491, 496 (1985) (detailing changes in racial and sexual composition of law school student bodies between 1950s and early 1980s). For additional interesting statistical data on minority law students, see Powers, *Differential Trends in Law Grades of Minority and Nonminority Law Students*, 76 J. EDUC. PSY-

grams[20] typify law school special admission support programs. CLEO administrators invite minority students with inadequate standardized test scores and undergraduate grades to attend free summer programs. Successful completion of one of these programs virtually always gains CLEO graduates admission to law schools and sometimes even to an elite law school.

CLEO programs, and other comparable prelaw programs for minority students, differ significantly from most undergraduate "bridge" programs for high risk minority high school graduates. Most undergraduate bridge educators believe that specially admitted minority students frequently do not possess the academic skills to do high level college work; therefore, undergraduate bridge programs involve much more than the "prestart" experience provided by CLEO-type programs.[21] Rather, these undergraduate programs train students in basic academic skills, such as reading, writing, and studying.[22] On the other hand, CLEO programs often avoid work with basic academic skills because some CLEO educators believe that standardized test scores and undergraduate grades simply discriminate against minority students.[23] Because these educators believe that students currently attending CLEO Institutes are better

CHOLOGY 488, 492-93 (1984) (although minority students had lower grades than nonminority students, minority students tended to show greater grade improvement).

My colleague, David Neely, recently wrote about minority admission programs. Neely, *Minority Participation in Legal Education: Innovative Approaches to Racial Parity*, 20 U.S.F. L. REV. 559 (1986). In his essay, Dean Neely refers to his own minority admission program, entitled "LEAP" (Legal Education Access Program). LEAP serves as a transition between two different levels of education.

20. Information regarding both CLEO and LSAC programs can be found in LSAC CHALLENGE GRANT PROGRAM REPORT, *supra* note 4. An exhaustive, but somewhat dated, discussion of many aspects of the CLEO program can be found in a whole series of articles collected in *Symposium*, 2 U. TOL. L. REV. 321 (1970). The most comprehensive and enlightening discussion in this Symposium is Rosen, *Equalizing Access to Legal Education: Special Programs for Law Students Who Are Not Admissible By Traditional Criteria*, 2 U. TOL. L. REV. 321 (1970). For a more current discussion of CLEO and other minority law school admission programs, see Romero, *An Assessment of Affirmative Action in Law School Admissions After Fifteen Years: A Need for Recommitment*, 34 J. LEGAL EDUC. 430 (1984).

21. The difference between bridge programs and prestart programs is crucial. Undergraduate bridge programs help high risk students pass over the huge gap that exists between high school and college level work. Undergraduate prestart programs simply give students a chance to jump over that gap prior to regular admission by taking some prestart courses and tests. These prestart programs sometimes are called "conditional admission" programs. In effect, conditional programs duplicate the open admission/flunk out procedures. Indeed, the only difference is that conditional admission programs flunk students out before they have gained regular admission. For a general discussion of undergraduate bridge programs, see SUMMER PROGRAMS FOR UNDER-PREPARED FRESHMEN (K. Lauridson and C. Myers eds. 1982).

22. Lauridsen, *supra* note 13, at 100.

23. This observation is based on extensive anecdotal evidence.

qualified than CLEO students were five years ago, they see no need to include work with basic academic skills in their programs.[24] Rather, most CLEO programs simply give students a taste of law school, law school teachers,[25] and law school exams.[26]

Just as early reports regarding the success of academic counseling programs at the undergraduate level presented very positive pictures, published reports about CLEO programs and other comparable law school minority admission programs are exceptionally favorable. For example, one report suggests that seventy percent of the students who successfully complete the six or eight week CLEO programs ultimately graduate from law school.[27] Furthermore, recent reports indicate that CLEO participants receive far better grades in law school than their academic credentials predict.[28] These results are remarkable in light of the relatively modest claims currently made by educators involved with high risk undergraduate students.

Unfortunately, methodological and interpretive problems abound with reports about law school special admissions support programs. For example, most CLEO research does not involve representative control groups.[29] Thus, researchers cannot tell whether participation in a CLEO-type program for six weeks, as compared with participation in some other intensive training activity, produces any positive results. Indeed, it is possible that special admission support programs for minority students do little more than identify students with extremely high levels

24. *See id.* at 218 n.215. *But see* Diggs, *Communications Skills in Legal Materials: The Howard Law School Program*, 2 U. TOL. L. REV. 763, 786 (1970) (considerable success achieved with remedial reading and writing program); Kelly, Rogers & Bern, *The Program at Kansas City*, 2 U. TOL. L. REV. 891, 897-901 (1970) (success achieved with remediation). Interestingly, these are the only reports that contain any hints of interdisciplinary analysis. Professors from outside of the law school provided assistance in formulating these programs, and standardized tests were used to determine reading and writing skills. *See* Diggs, *supra*, at 786-89; Kelly, Rogers & Bern, *supra*, at 902.

25. Many CLEO faculty members are law school professors. The author has found that since law faculties at many law schools are predominantly nonminority, however, CLEO institutes frequently employ minority lawyers to act as teachers.

26. Fulop, *The 1969 CLEO Summer Institute Reports: A Summary*, 2 U. TOL. L. REV. 633, 637-38, 650-55, 658-59 (1970); Gozansky & DeVito, *An Enlightened Comparison: The Relevant Strengths and Weaknesses of the CLEO Program and the Pre-Start Program of Emory University*, 2 U. TOL. L. REV. 719, 728-33 (1970); Henderson & Flores, *supra* note 19, at 25-27; Rosen, *supra* note 20, at 344-49.

27. Henderson & Flores, *supra* note 19, at 31.

28. Fulop, *supra* note 26, at 673-74; Gozansky & DeVito, *supra* note 26, at 739-45; Henderson & Flores, *supra* note 19, at 38-39; Romero, *supra* note 20, at 434-35.

29. Fulop, *supra* note 26, at 676; Gozansky & DeVito, *supra* note 26, at 737-39; Henderson & Flores, *supra* note 19, at 30.

of motivation.[30] Nor is there any way to tell what role, if any, is played in retention rates by the substantial law school scholarships that many CLEO-type graduates receive. Finally, the CLEO data itself is difficult to understand. Indeed, it may even be objectively wrong as reported.[31]

II. Academic Counseling Programs at the Undergraduate Level

It is not surprising that methodological and interpretive problems exist in law school special admission programs like CLEO and in other individualized academic support programs at some law schools. As noted earlier, most legal educators are totally unfamiliar with the huge body of literature about academic counseling and special admissions programs that undergraduate educators have compiled over the last twenty-five years. Thus, essays by legal educators about academic support rarely cite works not written by law trained individuals. Furthermore, most legal educators themselves lack the training and experience to engage in the kind of sophisticated social science research that would generate valid empirical data in this context.

Legal educators alone, however, need not take all the blame. Writers on undergraduate academic counseling seem wholly unfamiliar with work being done at the law school level and with their claims of extraordinary success. In short, these undergraduate educators have made

30. For example, John Marshall Law School sponsors a conditional program. Students admitted to this program are not, for the most part, minority students. Like many minority students, however, they cannot gain admission to the regular fall entering class because of inadequate undergraduate grades or scores on the LSAT. After gaining admission to the conditional programs, these students take two standard three credit hour law school courses during the summer term from the regular teachers of those courses. Because the summer term is short, each of these classes meets for six hours per week. While taking these courses, students receive no special counseling or remediation. Students who obtain a C+ or better average receive credit for the two courses and are admitted to school in the fall with the regular class.

Many students drop out of this grueling program well before its completion. A considerable number of those that remain do not obtain the C+ or better average. (Actual figures on this grade point average point are unavailable.) Of those students that gain admission to the regular program through the conditional program, however, only a very tiny minority—well below ten percent—fail to do adequate work in law school. Some of these students do extremely well. For example, one student who could not gain regular admission to any Chicago area law school successfully completed this program, graduated from law school near the top of his large class, went on to clerk for a high level appellate court judge, and now works for a large corporate law firm.

31. For a collection of CLEO data, see Henderson & Flores, *supra* note 19. To the extent that the respondents were a self-selected group of relatively successful students, the data in their report could be seriously skewed. For example, no respondents reported that they had dropped out or flunked out of school. In contrast, other data shows at least a 25% drop out rate for minority students. *See Developments: Minority Attrition in Law School*, 37 J. LEGAL EDUC. 144, 144-45 (1987) (25% of matriculating black students fail to complete law school; 11% of minority students flunk out; 4% of white students flunk out).

little effort to reach out to the legal educators, just as the legal educators have made little effort to reach out to them. Yet legal educators willing to consider the experience and research of undergraduate educators may avoid many errors made in ignorance in the early days of undergraduate academic support programs.

Several years ago, Professor John Roueche and his colleagues at the University of Texas noted a seemingly obvious point in their comprehensive study of undergraduate academic support programs: different students get into academic difficulty for different reasons.[32] Roueche then made two points based on this observation. First, he noted that all successful academic counseling programs at the undergraduate level began with an individualized assessment[33] of what caused individual students to get into academic trouble.[34] Second, after such assessment, the programs provided individualized support. The remainder of this section explores these points in greater detail.

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32. *See* J. ROUECHE, *supra* note 15. Martha Maxwell seems to have arrived intuitively at conclusions that Roueche confirmed with empirical data. *See, e.g.*, M. MAXWELL, *supra* note 10, at 47-55.

33. A number of assessment instruments are described in NEW DIRECTIONS FOR STUDENT SERVICES: MEASURING STUDENT DEVELOPMENT 65-92 (G. Hanson ed. 1982); Blustein, Judd, Krom, Viniar, Padilla, Wedemeyer & Williams, *Identifying Predictors of Academic Performance of Community College Students*, 27 J. C. STUDENT PERSONNEL 242, 244-45 (1986); Gadzella & Williamson, *Study Skills, Self-Concept and Academic Achievement*, 54 PSYCHOLOGICAL REP. 923, 923-25 (1984). Important instruments regarding study skill abilities are the "Survey of Study Habits and Attitudes," listed in M. MAXWELL, *supra* note 10, at 390-94, and the "Effective Study Test," discussed in Dougherty & Schmidt, *Study Skills, Locus of Control, and Achievement*, 1 EDUC. & PSYCHOLOGICAL RES. 11, 13-14 (1981), and Nisbet, Ruble & Schurr, *Predictors of Academic Success with High Risk College Students*, 23 J. C. STUDENT PERSONNEL 227, 229 (1982). A number of instruments evaluate what psychologists call "learning styles," which may affect the way individual students learn. *See* Claxton, Adams & Williams, *Using Student Learning Styles in Teaching*, 34 AM. A. HIGHER EDUC. BULL. 1, 1 (May 1982).

Standardized tests can identify other psychological traits that can have a negative effect on school work and grades. For example, research has demonstrated repeatedly that students with excessively poor self-images tend to do poorly in school. Furthermore, students with poor self-images, particularly minority students, often get trapped in self-defeating cycles of poor study habits, high levels of anxiety, and inadequate reading skills. *See* Garcia & Presley, *An Assessment and Evaluation Program for Black University Students in Academic Jeopardy: A Descriptive Analysis*, 9 J. COMMUNITY PSYCHOLOGY 67, 69 (1981); *see also* M. MAXWELL, *supra* note 10, at 201-05 (describing the literature on underachievement).

34. The need for individualized assessment as the initial step in academic counseling programs cannot be overstated. Academically troubled students are sensitive and may drop out of counseling programs at the slightest provocation. Thus, students who do not need help with study skills, a dominant topic in most counseling programs, lose interest quickly and drop out. Conversely, students who need help regarding basic studying skills lose interest in counseling programs that do not emphasize those skills.

A. The Causes of Academic Difficulty in College and Law Students

Some college and law students get into academic difficulty simply because they lack the intellectual ability to do the work required of them at a particular school.[35] Unfortunately, academic support programs can do little or nothing to help students who simply are playing out of their league when it comes to academic ability. If the ability or skills are not present, academic counseling cannot help the students, no matter how skillful the counseling might be. Thus, academic counselors faced with students in academic trouble for this reason should consider discussing with the students the possibility of transferring to less competitive academic institutions. Such transfers may well turn those struggling and unhappy students into fine and happy students.[36]

Another group of students that experience academic difficulty in college and law school are those who lack good reading or writing skills.[37] Because of this lack of skills, such students cannot efficiently internalize information that they read or communicate their ideas on paper quickly and coherently. Specially admitted minority students, as well as other students, often suffer from these reading or writing problems.[38]

General academic support programs probably should provide only minimal help for students who read or write poorly because such problems are best addressed by reading and writing specialists. Thus, unless academic support programs have such experts on their staffs, support counselors should serve simply as a referral to such experts and as a

35. Ability in this context refers to relationships between students at given institutions rather than objective qualities of intelligence. For example, a high school graduate with a B average and a 1000 point total on the SAT is by almost all definitions a very fine student. Such a student probably will do well at a small regional liberal arts college or at a nonelite state university. The same student, however, may not be able to compete academically at an elite college or university. He or she simply will be overmatched in such an environment. This most certainly does not mean that students like this are stupid. Rather, it indicates that students like this do not possess the skills and abilities possessed by most of the students at elite schools. *See generally* SUMMERS, *Preferential Admissions: An Unreal Solution to a Real Problem*, 2 U. TOL. L. REV. 377, 392-93 (1970) (academic success is as dependent on students' relative grades and test scores as on the absolute values of such measures).

36. Of course, some problems exist with giving such advice. As a general rule, graduation from elite schools affords more and better job opportunities or admission to a better graduate school. Anecdotal evidence, however, suggests that minority students who do very well at less competitive schools also seem to get top quality jobs and admission to fine graduate schools.

37. Standardized tests can be used to determine if students have substantial problems with English composition or reading comprehension.

38. For example, students who had highly technical undergraduate or high school educations may have gone through many years of schooling without ever having written an essay exam or a narrative paper, and perhaps without having read literature other than the technical literature in their field.

source of confidence for students reluctant to seek help for reading and writing problems.[39]

Three additional factors cause college and law students to get into academic difficulty—laziness, conflicting priorities, and feelings of inadequacy. All three of these factors cause students to spend inadequate time studying. Furthermore, all three revolve around something that counseling theorists usually think of as a single problem, namely, lack of motivation.[40] Lazy students lack motivation for studying simply because they do not care enough about school. They care more about other things, such as partying. Students with conflicting priorities also lack motivation for studying because greater motivation exists for them to spend large amounts of time on other important things, such as necessary part-time employment[41] or caring for spouses and children. Finally, some students lack motivation for studying because they have negative images of themselves and of their intellectual abilities. Specially admitted minority students, accustomed to years of racial prejudice and inadequate schooling, frequently have these negative self-images.[42] These students do not study because they do not think studying will help them succeed academically.

Academic counseling programs must address each of these motivational problems differently. Little can be done for lazy students. Perhaps they should be ignored. Students with conflicting priorities, however, often can be helped to reorder their priorities. The programs could instruct students how to get financial aid, for example, or could provide support for child care responsibilities. Finally, students who have negative intellectual self-images must be helped to overcome this negativism.[43]

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39. Referral to reading and writing specialists may be difficult. Experience indicates that many college and law students strongly resent the suggestion that they need remedial help in reading and writing, perhaps because they believe that lack of skills in these areas equates with stupidity.

40. On the issue of motivation and academic counseling, see G. GIBBS, TEACHING STUDENTS TO LEARN: A STUDENT CENTERED APPROACH 51-52 (1981); M. MAXWELL, *supra* note 10, at 201-02, 302; *see also* B. BRAGSTAD & S. STUMPF, STUDY SKILLS AND MOTIVATION (1982) (principally directed at teachers of high school students).

41. This serious problem is explored at the law school level in Zillmand & Gregory, *The New Apprentices: An Empirical Study of Student Employment and Legal Education*, 12 J. CONTEMP. L. 203 (1987).

42. *See generally* Garcia & Presley, *supra* note 33, at 67 (report on the identification, assessment, and evaluation of factors contributing to black student attrition, and the problems encountered in that effort).

43. Additionally, some students get into academic difficulty because of emotional problems. Grades then plummet. Students affected by these emotional problems do not need academic counseling per se. Rather, they need psychological counseling. For most of these

The many causes of academic difficulty present a variety of counseling problems, requiring a variety of approaches. Unfortunately, however, this is rarely done. Most academic counselors pay only lip service to this idea. For example, counselors hardly ever divide students into different groups based on the varying reasons for academic difficulty. In addition, counseling programs rarely have a wide variety of staff members, such as reading specialists and psychologists.

B. Attributes of Successful Undergraduate Counseling Programs

Research on academic support programs at the undergraduate level—most notably Professor Roueche's national survey—has provided much useful information. For example, the realization of the need for initial assessment of academically troubled students grew out of such research, as did the concomitant realization that different students get into the same kind of academic difficulty for different reasons.

Fortunately, most of the other discoveries made about academic support programs at the undergraduate level are essentially self-explanatory. For example, Professor Roueche discovered that counseling programs usually succeed only if strong administrative support exists.[44] Casual programs—those informally run by individual teachers or counselors—do little good overall.[45] In addition, Roueche found that faculty participation in academic counseling programs had to be voluntary rather than mandatory.[46] Participating teachers achieved progress only if they themselves had demonstrated full commitment to the programs.[47] Furthermore, Roueche discovered that successful counseling programs

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students, therefore, academic counseling programs should serve principally as sources of referral. *See Developments—Counseling Services for Law Students, A National Survey,* 34 J. LEGAL EDUC. 534 (1984) (surveying psychological counseling services in law schools); *see also* Dickerson, *Psychological Counseling for Law Students: One Law School's Experience,* 37 J. LEGAL EDUC. 82 (1987) (systematic account of law students who sought psychological counseling at their law school health service). For a very brief discussion of counseling at the University of Santa Clara, see Gutierrez, *Counseling Law Students,* 64 J. COUNSELING & DEV. 130 (1985).

44. *See* Roueche, *supra* note 15, at 5.

45. *See id.* at 6.

46. *See id.* at 7-8. The word "voluntary" as used here does not mean "volunteer." Schools that give strong administrative support to academic counseling programs probably compensate teachers who participate, at least by counting their participation as the equivalent of teaching a substantive course. In fact, one writer recently has argued that teachers who teach academically troubled students should get additional benefits for doing so. *See* Astin, *Providing Incentives for Teaching Underprepared Students,* 66 EDUC. REC. 26, 29 (Winter 1985).

47. *See* Roueche, *supra* note 15, at 7-8.

usually contain an extensive course on study skills,[48] which is offered with a flexible completion strategy.[49]

Roueche and the national survey also confirmed a point that has almost completely escaped attention at the law school level. Academic support programs should include statistically valid mechanisms for evaluating the success of the programs themselves.[50] Such mechanisms, of course, should include methods for comparing the academic records of counseled students with the academic records of properly selected control groups.[51]

Two findings developed by undergraduate research on academic support programs are most surprising. First, virtually all successful undergraduate counseling programs award students academic credit for participation.[52] Such awards of credit at the law school level are exceedingly rare. Second, Professor Roueche and his colleagues discovered that

48. For descriptions of what should be taught in these study skills courses, see J. APPS, STUDY SKILLS FOR THOSE ADULTS RETURNING TO SCHOOL (1978); E. ASKOV & K. KAMM, STUDY SKILLS IN THE CONTENT AREAS (1982); J. DEESE & E. DEESE, HOW TO STUDY (1979); D. ELLIS, BECOMING A MASTER STUDENT (5th ed. 1985); K. GRAHAM & H. ROBINSON, STUDY SKILLS HANDBOOK: A GUIDE FOR ALL TEACHERS (1984); J. MULLEN, COLLEGE READING AND LEARNING SKILLS (1987); J. TALLEY & L. HENNING, STUDY SKILLS (1981).

49. A flexible completion strategy means that students are allowed to finish the course over one, two, or even three semesters.

50. This point should be self-evident, but it has been a problem in many studies. *See infra* note 51.

51. On this issue of evaluating programs generally, see ASSESSMENT OF LEARNING ASSISTANCE SERVICES (C. Walvekar ed. 1981); Clowes, *The Evaluation of Remedial Developmental Programs: A Stage Model of Program Evaluation*, 8 J. DEVELOPMENTAL EDUC. 14 (1984).

Unfortunately, program evaluation can pose serious methodological and ethical problems for academic counseling researchers that are frequently overlooked in the counseling literature. For example, academically troubled students invited to participate in counseling programs who choose not to participate, or who drop out soon after the program begins, cannot be used as controls. These students' unwillingness to participate creates an uncontrolled variable. Professor Leonard's study of the law school program at Indiana suffers from this methodological problem, which Leonard himself obliquely recognized. *See* Leonard, *supra* note 1, at 95. One of the early writers on CLEO also noted this problem. *See* Diggs, *supra* note 24, at 778 n.31.

The only way to create valid controls in this context is to divide randomly all high risk and probationary students in a particular institution into two separate groups. Only one of those groups can be invited to receive counseling. The group that was not invited becomes the control. Serious ethical considerations arise when researchers create controls in this manner. Substantial evidence exists that at least some academic improvement occurs when students receive academic counseling. Indeed, that point no longer is in dispute. This creates the ethical problem. When significant evidence already exists that treatment improves the condition of the human beings at risk, experimenters cannot ethically withhold that treatment simply to create valid controls. Human beings are not rats.

52. *See* Roueche, *supra* note 15, at 7. Awards of credit may reduce the problem of stig-

counseling programs which place heavy responsibility on peer or student tutors tend to produce better results[53]—at least in terms of short term grade improvement—than counseling programs that rely on professional or faculty counselors.[54] This is a happy discovery, of course, because schools can pay peer tutors lower wages than they must pay professional counselors.

Undergraduate academic support program theorists do not know why peer tutors work so well in counseling programs. Perhaps this occurs in part because academically troubled students feel more at ease with fellow students than with teachers or with professional counselors, and they therefore produce better work. A more likely explanation, however, is that individual professional counselors cannot meet on an individual basis with more than a handful of students each day. Thus, counseling programs that rely principally on professional counselors must either employ large numbers of professionals—at prohibitive expense for most schools—or give individual counseled students infrequent personal attention. Conversely, counseling programs employing peer tutors can tap into an essentially unlimited number of potential counselors. Frequency of contact between counseled and counselor, rather than the professional or nonprofessional status of the counselor, probably explains why peer tutor programs work better than programs that rely only on professional counselors.[55]

One last point must be made about the results of research on undergraduate academic counseling programs. According to Professor Roueche, virtually all successful programs involve "multiple learning

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matization felt by students in these academic support programs. In addition, awards of credit seem to increase the seriousness with which students approach their work in these courses. *Id.*

53. *See id.* at 8. For a discussion of the possible problems generated by the use of peer tutors, see *infra* notes 64-72 and accompanying text.

54. A considerable number of other writers have made a similar discovery. *See, e.g.*, Malett, Kirschenbaum & Humphrey, *Description and Subjective Evaluation of An Objectively Successful Study Improvement Program*, 61 PERSONNEL & GUIDANCE J. 341, 345 (1983). Interestingly, research also shows that peer tutors themselves become better students as a result of their work with troubled students. *See* Jackson & Van Zoost, *Self-Regulated Teaching of Others as A Means of Improving Study Habits*, 21 J. COUNSELING PSYCHOLOGY 489, 492 (1974).

55. Regardless of their tremendous value, peer tutors alone cannot run academic counseling programs. Indeed, student-run counseling or advising programs—quite common at the law school level—may do substantial harm. These informal student programs rarely attract students with the highest grades as counselors. Indeed, anecdotal evidence suggests that they often seem to attract counselors who themselves desperately need emotional or academic counseling. In short, although peer counselors should play a substantial role in academic counseling programs, these peer counselors should have professional help provided by at least one trained teacher or counselor.

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systems," meaning that counselors use different approaches at different times with the students.[56] For example, good counseling programs should involve a mixture of formal lecture, group discussion, reading assignments,[57] and written work.[58]

Counseling programs that employ multiple learning systems work better than counseling programs that rely on single systems. Since different students get into the same kind of academic difficulty for different reasons, multiple systems present a much greater likelihood of addressing the problems of different students. Thus, for example, students who have conflicting priorities may improve their grades if they hear lectures about the preparation of study schedules. But students who get poor grades because they cannot write very well will not be helped by such lectures. They will be helped only by programs that have repeated writing assignments. Furthermore, students who got into academic trouble because they have low self-esteem will not benefit from either lectures or writing practice. They may be helped only when they discover in group discussions that other students have very similar negative feelings about themselves.

Unfortunately, most writers on academic support programs pay only lip service to the idea of multiple learning systems. In a recent essay, for example, Daniel Kirschenbaum described the component parts of an eleven session program.[59] All eleven parts seem to involve a counselor-led discussion. David Paskewitz wrote about a twelve session pro-

56. *See* Roueche, *supra* note 15, at 7.

57. Most academic counselors will take one of two completely different approaches to possible reading assignments for academically troubled students. Some counselors will advise students to read books like Virginia Voeks' short classic, ON BECOMING AN EDUCATED PERSON (3d ed. 1970). This is a very readable, but abstract, book.

Though Voeks' book has much to offer troubled students, it is not the kind of book that these students will want to read. Students in trouble want concrete help on studying and improving their grades, not abstractions about the glories of higher education. Perhaps, then, counselors should encourage students to choose for themselves. For example, students could be encouraged to read either Voeks' book, or Meredith Gall's STUDY FOR SUCCESS (1985). Unlike Voeks, Gall is completely down to earth. In fact, he boldly divides up what he thinks is the process of good studying into no less than 80 individual and easily mastered tasks or skills. ("When given an assignment, do some work on it right away." "Maintain continuity of study, so you do not lose the thread." "Do something pleasurable after a study session, not before.") *Id.* at 16-17.

58. Computer software that has become available recently provides even greater variety in this context. *See* C. JOHNSON & K. PYLE, ENHANCING STUDENT DEVELOPMENT WITH COMPUTERS 9-10 (1984); Gadzella, *Computer-Assisted Instruction on Study Skills,* 50 J. EXPERIMENTAL EDUC. 122 (1982) (investigating the effectiveness of a computer assisted instruction study skills program on students' behaviors and attitudes).

59. Malett, Kirschenbaum & Humphrey, *supra* note 54, at 342-43.

gram.[60] Although Paskewitz spent a considerable amount of time describing the dynamics of group activity, he does not describe any counseling activities other than group work.[61]

One other theorist deserves mention. Graham Gibbs, a British educational psychologist, did not intend to write about academic counseling programs when he wrote his provocative book, *Teaching Students to Learn: A Student Centered Approach*.[62] Nevertheless, Gibbs succeeded in providing some very good advice to academic counselors. His description of a first learning exercise that he uses with large groups of students might well be the perfect first session in a multiple session/multiple method counseling program for high risk and academically troubled college or law students.

> *"How Do We Learn Best?"*
>
> Working Alone (3 Minutes): "Think back to some past experience of learning—it could be at school, in sports, in a hobby, anything that was particularly awful—it may have been boring or humiliating or you simply learnt nothing at all. Jot down a few notes on *why* you thought it was so bad."
>
> Working Alone (3 Minutes): "Now do the same for a *good* learning experience—when you learnt a lot, were successful, enjoyed it and were interested. What was it that made learning so good? Jot down a few notes."
>
> Working in Pairs (10 Minutes): "Relate your experiences to each other in pairs. Explain why your experiences were good or bad. What are the main similarities between what makes learning good or bad for you both? In what ways do you seem to thrive or suffer in different circumstances? Try and stick to basing your discussion in your own personal experiences rather than generalizing."
>
> Working in Fours (24 Minutes): "Form a group of four with another pair. From your pooled experiences of good and bad learning, can you see any themes arising?—things for which you tend to characterize good and bad learning in general. Each group of four elect a [chairperson] who notes down what is said under two columns: 'Things that lead to unsatisfactory learning,' and 'Things that tend to support and encourage very satisfactory learning.' Note down as many things as you can under the headings."
>
> Working in Plenary (20 Minutes): "I'd like each group of four, in turn, to read out one item from its list. I'd like everyone else to ask

60. D. PASKEWITZ, STUDENT EFFECTIVENESS: A GROUP APPROACH TO SELF-MANAGED LEARNING 23-76 (1977).

61. Some writers provide descriptions of more comprehensive programs. Bernice Bragstad and Sharon Stumpf, for example, recently described methods for integrating training of study skills with motivational issues. B. BRAGSTAD & S. STUMPF, *supra* note 40, at 1. These authors focused primarily on high school teachers, however, and did not address the problems discussed herein.

62. G. GIBBS, *supra* note 40, at vii-viii. Gibb's book is designed for work with all students. He makes no specific references to students in academic trouble.

this group to explain itself, to make the meaning of each item clear. Also, for each item, I'd like suggestions as to how that might affect the way you are learning here, in this institution, now."[63]

III. The Problem of Dependency

Notwithstanding their successes, virtually all undergraduate academic support programs continue to grapple with the same problem. Although students frequently show some short term grade improvement while undergoing academic counseling, grade performance usually returns to unacceptable levels as soon as the counseling ends.[64] Undergraduate researchers have tried to combat this problem, but the only techniques that seem to work are those developed in a different context by theorists of "independent learning."

A. Independent Learning Skills

Independent learning theorists believe that students, particularly adult students, do not learn well until they develop the ability to function outside of the control of their teachers.[65] "Significant learning has taken place when the student comes to regard a teacher as only one of many contextual resources available to help make learning easier. . . .The mature learner becomes his or her own teacher."[66] Other independent learning theorists have provided more concrete detail about the process

63. *Id.* at 11-12.

64. *See* Landward & Hepworth, *Support Systems for High Risk College Students: Findings and Issues,* 59 C. & U. 119, 126 (1984).

65. Caffarella & Caffarella, *Self-Directedness and Learning Contracts in Adult Education,* 36 ADULT EDUC. Q. 226, 226-28 (1986) (recent discussion of literature of independent learning); *see Symposium: A Themed Issue on Reader Independence,* 30 J. READING 581 (1987) (discussion of independent learning ideas); *see also* P. DRESSEL & M. THOMPSON, INDEPENDENT STUDY 122-31 (1973) (suggestions for creating an independent study program); Boud & Prosser, *Sharing Responsibility: Staff Student Cooperation in Learning,* 11 BRIT. J. EDUC. TECH. 24 (1980) (examining a program that encourages independent student learning). *See generally* DEVELOPING STUDENT AUTONOMY IN LEARNING (D. Boud ed. 1981) (essays on issues and case studies concerning independent study); P. DRESSEL & M. THOMPSON, *supra* (case studies and evaluations of independent study programs); M. KNOWLES, SELF-DIRECTED LEARNING (1975) (a guide to self-directed learning for use by both learners and teachers); MOVING TOWARD SELF-DIRECTED LEARNING (D. Della-Dora & L. Blanchard eds. 1979) (same); J. ROUECHE, INCREASING BASIC SKILLS BY DEVELOPMENTAL STUDIES (1977) (containing excellent survey of Knowles' ideas); SELF-DIRECTED LEARNING: FROM THEORY TO PRACTICE (S. Brookfield ed. 1985) (containing edited version of Brookfield's important critique of mainstream theory); Treffinger, *Teaching for Self-Directed Learning: A Priority for the Gifted and Talented,* in CREATIVITY: ITS EDUCATIONAL IMPLICATIONS 109 (2d ed. 1981) (linking the idea of independent learning to problem solving skills). These works almost completely have escaped the attention of academic counseling writers.

66. P. DRESSEL & D. MARCUS, ON TEACHING AND LEARNING IN COLLEGE 26-27 (1982).

of independent learning. For example, Harold Herber and Joan Nelson-Herber recently summarized their ideas about independent learning into five general principles:

> (1) Independence in the performance of a task is a logical extension of having learned and practiced that task. (2) Students' independence is developed by design, not by chance. (3) Independence is a relative state, conditioned by the concepts being studied, the sophistication of the resources being used, and the maturity of the learner. (4) Independence does not mean isolation. (5) Independence is never fully attained.[67]

There can be little doubt that student dependency typifies the relationship between counseled students and counselors, just as dependency typifies the relationship between students and teachers. Indeed, almost all of the counseling techniques described in this essay occur within teacher-student or counselor-student relationships that place teachers and counselors in the dominant role.

The following chart, reproduced from the literature of independent learning, details learning characteristics typical of independent (that is, self-directed) learners and dependent (that is, teacher-directed) learners.[68] Although this chart was not created with academically troubled students in mind, the right side, which lists the assumptions of teacher-directed learning, closely parallels the learning characteristics of many high risk and probationary students.

67. Herber & Nelson-Herber, *Developing Independent Learners*, 30 J. READING 584, 585-86 (1987).

68. The chart is from M. KNOWLES, *supra* note 65, at 19-20.

Assumptions of Self-Directed Learning	Assumptions of Teacher-Directed Learning
Learner has psychological need and capacity to become self-directing and interdependent. Capacity should be developed.	Learner seen as dependent personality; teacher has responsibility of deciding what and how the learner should be taught. Teachers know, learners do not know what they need.
Learners' experience seen as rich resource for his own learning, his teachers' learning, and his peers' learning.	Learners' experience is devalued or ignored. Teachers and other authorities have the corner on insight and experience.
Learners seen as ready to learn what is required to perform their evolving life tasks or to cope better with life's problems. This pattern of readiness may differ.	Learners seen as much alike with essentially the same needs and . . . readiness to learn.
Learners enter education with essentially a task-or problem-centered orientation to learning.	Learners enter education with essentially a subject-centered orientation to learning.
Learners motivated by internal incentives, that is need for esteem, desire to achieve, urge to grow.	Learners motivated to learn by external rewards—grades, degrees, employment.

Independent learning theorists provide different explanations for why so many students remain dependent upon their teachers. For example, Paul Dressel and Mary Thompson, two early writers on independent learning, noted that the institutional climate of many schools discourages independence.[69] Because of the importance of departmental autonomy in most colleges and universities, no consistent plan for promoting independence across the entire spectrum of most schools' programs can be established.[70] Others place the blame squarely on poor teachers:

> Traditionally, teachers have worked in an authoritarian mode, so that anyone who attempts to shift the centre of gravity of responsibility for learning towards the student is almost certain to experience doubts and difficulties in adjusting to a new role. . . . Much . . . teaching is characterized by a repeated demonstration of subject-matter knowledge and skills in such a manner that the student is left with little to do beyond the performance of routine intellectual and clerical tasks. The student becomes a victim of the teacher's role, a receptacle for highly-processed and over-simplified information which is quickly forgotten once it has served its purpose as examination fodder.
>
> . . . .

69. P. DRESSEL & M. THOMPSON, *supra* note 65, at 68.
70. *Id.* at 80-81.

> Somewhat similar problems confront students when they are faced with an environment for learning which requires an unfamiliar degree of initiative and self-confidence. . . . [T]he earlier experiences of the students have rendered almost all of them totally unprepared to exercise independent thought and action in handling their own learning needs. Accustomed to being passive consumers of courses designed, presented and assessed by others they are bewildered and often resentful when it is suggested that they assume more responsibility for their own learning. Even those who are prepared to tackle less structured courses . . . lack confidence in their ability to handle them successfully and need a great deal of help if they are to overcome their fears and anxieties.[71]

A dependency relationship similar to the one just described often develops between academic counselors and their students. Students enter academic counseling programs desperate for help, ready to rely on the advice of anyone who acts as an authority. Unfortunately, the relationships counselors establish with their students often reinforce student dependency.

Academic counseling may reinforce student dependency for two reasons. First, counselors, either professional or peer, must monitor counseled students continually in terms of class attendance, homework preparation, and review. Monitoring, of course, characterizes a dependency relationship. Second, the use of peer tutors allows counseling programs to establish frequent contact between counseled and counselor. Frequent contact encourages dependency.

Independent learning theorists also have developed standardized test instruments for evaluating the independence or self-directedness of students. These test instruments should be used in academic support programs. For example, the Self Directed Learning Readiness Scale (SDLRS) and the more recently developed Self-Directed Learning Competencies Self Appraisal Form (SDLCSA) test for, among other things, the following competencies or abilities:

> The ability to diagnose my own learning needs realistically, with help when needed from teachers and peers.
>
> The ability to translate learning needs into learning objectives in a form that makes possible the accomplishment of those objectives.
>
> The ability to relate to teachers as facilitators, helpers or consultants.
>
> The ability to identify human and material resources appropriate to different kinds of learning objectives.
>
> The ability to take the initiative in making use of the resources of my teachers.

71. Powell, *Moving Towards Independent Learning*, in DEVELOPING STUDENT AUTONOMY IN LEARNING 205, 205-07 (D. Boud ed. 1981).

> The ability to select effective strategies for using learning resources.
>
> The ability to execute the learning strategies skillfully and with initiative.
>
> The ability to gain knowledge and skill form the resources utilized.
>
> The ability to relate to peers collaboratively and to see them as resources for diagnosing, planning, and completing my learning.
>
> The ability to deal and cope with personal blocks to learning.
>
> The ability to renew my motivation for learning when it lags.
>
> The ability to evaluate my own work and get feedback from others about my progress.[72]

Those who are familiar with poorly performing law students will observe that these students frequently lack the abilities just described. Such students may need to develop these abilities to perform well academically. Because the SDLCSA allows translation of these observations into concrete empirical data, use of the test will benefit academic counseling programs.

B. Counseling Programs and Independent Learning

The work of independent learning theorists has escaped the attention of academic support program theorists, just as the work of both of these groups of educators has escaped the attention of legal educators. Indeed, only two empirical studies by academic counseling theorists have addressed the idea of independent learning skills. Furthermore, neither of these studies addresses this idea directly. More importantly, neither study used standardized test instruments for evaluating independent learning skills. Nevertheless, these studies deserve extended mention.

In 1978, Steven Richards and Michael Perri attempted to find ways to deal with counseled students' general inability to show long term grade improvement.[73] These researchers specifically examined two techniques, "faded" counselor contact, and training in "problem solving." Faded contact, which means that contact between academically troubled students and counselors fades out rather than ends abruptly, did not promote long term grade improvement.[74] Training in problem solving skills, however, generated a different result.

As part of their program, Richards and Perri taught students a five step problem solving process using studying and learning problems that

72. Caffarella & Caffarella, *supra* note 65, at 230-31.

73. Richards & Perri, *Do Self-Control Treatments Last? An Evaluation of Behavioral Problem Solving and Faded Counselor Contact as Treatment Maintenance Strategies*, 25 J. COUNSELING PSYCHOLOGY 376 (1978).

74. *Id.* at 379.

might arise after the counseling program itself ended. This technique worked; students who learned to solve such problems demonstrated long term grade improvement.[75]

The Richards and Perri five step process for solving academic problems is remarkably similar to a process that independent learning theorists teach students in order to help those students gain independence from their teachers. The process developed by Richards and Perri involved five steps: (1) general orientation; (2) analysis of the problem; (3) production of alternative solutions; (4) decision; and (5) verification.[76] The four steps that many independent learning teachers use are: (1) set goals; (2) devise program for accomplishing goal; (3) establish criteria for evaluation; and (4) evaluate progress.[77] The first step—set goals—is similar to the Richards and Perri orientation step. The second step instructing students to devise a program corresponds to the middle three steps in the Richards and Perri scheme: analysis, production, and decision. The final two steps in the independent learning process are the Richards and Perri verification step. Richards and Perri, in short, taught their students how to be independent learners.

A recent report by Sherrie Nist and Michele Simpson of their work with high risk students at the University of Georgia also suggests, albeit

75. *Id.*

76. Further elaboration is helpful. The Richards and Perri five step problem solving process began with a general orientation. "Something is wrong with my studying," students would train themselves to say. "I can cope with that problem, but I need to determine what is wrong and develop a specific solution." In step two, students would identify the problem. "I am not studying enough. I study 15 hours a week. To get acceptable grades, I need to study 25 hours." Students then learned to generate alternative solutions:

> (1) I can stay up every night until 2:00 a.m. rather than go to bed at 12:00; (2) I can skip going out on dates on weekends; (3) I can increase my daytime studying by two hours and keep track of whether I am actually doing more during the day; (4) I can study in the library rather than in my room and thus avoid so many distractions.

The fourth step involved decisionmaking: "I'll study more during the day in the library and keep track of my time." The fifth step, an interesting variation on standard problem solving methodology, was "verification." These researchers felt that students must be taught to monitor their own progress. Thus, after several weeks, the students who had solved this particular studying problem had to determine whether they in fact had implemented the solution that they had chosen. *Id.* at 378.

77. *See* Treffinger, *supra* note 65, at 119. A little more detail shows why these four steps are so similar to the Richards and Perri five step approach. First, independent learners must be able to set goals and objectives. ("What am I going to learn?") Second, people seeking independence from teachers must learn how to devise rational programs for obtaining their objectives. ("How will I achieve this goal?") Third, people who possess the ability to learn on their own can establish their own criteria of excellence. ("What are my standards of performance going to be? What will I consider satisfactory work?") Finally, this process requires learners to develop the ability to evaluate their performances in an objective fashion in light of their own criteria. ("How have I done?") *Id.* at 113-14.

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only in anecdotal form, that independent learning skills may be important for promoting long term grade improvement for high risk and probationary students.[78] Their work involved what leading theorists have begun to call "transfer." Transfer is a process that occurs during the course of reading instruction in which "responsibility for skill or strategy use shifts gradually from the teacher to the student."[79] Such transfer "encourages independent use of the comprehension strategy in the absence of the teacher's supervision."[80] The process of transfer, of course, is very similar to the process of developing independent learning.

Nist and Simpson began working with the idea of transfer after they concluded that traditional "skills-based" approaches to the teaching of remedial reading produced little long term student reading improvement.[81] As soon as students left these skills based programs, their reading fell back to inadequate levels.[82] Transfer had not occurred. Nist and Simpson tried three strategies in their efforts to promote transfer.

The first technique used by Nist and Simpson involved teaching students to monitor their own reading through writing journals. Initially, students recorded their observations about their reading using a single entry journal process that required them to respond to nine specific questions about the reading process itself:

> (1) How interesting was the chapter? (2) Could you concentrate? (3) Was the chapter easy to understand? How was it organized? (4) How difficult were the new terms? (5) What do you think your reading rate was like? (6) How did the length of the chapter affect your reading? (7) What major concepts and details do you remember? (8) How does the information in this chapter affect you personally? (9) What did you already know about this topic?.[83]

Students used this single entry process only until it became repetitive. After learning how to make these single entries, the students learned how to make double entries in their journals according to the following guidelines.

> (1) Write for a minimum of one half hour. (2) Divide paper in half lengthwise. Mark the lefthand column "Copy" and the righthand column "Response." (3) In the lefthand column, copy directly from the book quotes, statements, theories, etc., that are difficult to understand, interesting, of key importance, or require clarification. (4) In the

78. Nist & Simpson, *Facilitating Transfer in College Reading Programs*, 30 J. READING 620, 624 (1987).

79. Baumann & Ballard, *A Two Step Model for Promoting Independence in Comprehension*, 30 J. READING 608, 608 (1987).

80. *Id.*

81. *See* Nist & Simpson, *supra* note 78, at 621.

82. *See id.*

83. *Id.* at 621-22.

> righthand column, record whatever thoughts, questions, or comments come to mind as you attempt to make sense of what was copied.[84]

Mindful of the fact that teacher or peer supervision of academically troubled students could not continue indefinitely, Nist and Simpson gradually phased out teacher direction in connection with use of these journal entries.

The second technique for promoting transfer emerged from the researchers' belief that students do not really understand something until they can explain it in their own words.[85] Thus, these theorists required their students to form teaching partnerships.[86] One partner played the role of the teacher, and the other played the role of the student. Both had to imagine that the student had no prior knowledge of the subject. Then, using his or her own words, visual aids, and examples, the teacher partner had to teach the student partner the studied material. After the lesson, the student partner had to summarize the lesson. Nist and Simpson noted that after students experienced a few teaching partnerships, many of them chose to study for exams with partners. More importantly, these students did not seem so dependent on their teachers for guidance and help.[87]

The third technique Nist and Simpson used to promote transfer involved teaching students how to plan, monitor, and evaluate their own future reading and studying activities.[88] This technique was similar to what Richards and Perri did in connection with problem solving practice. Both sets of theorists initially concentrated on helping students learn how to formulate personal study plans. Then both sets of theorists helped students learn how to evaluate independently compliance with those plans.

The importance of the work done by Nist and Simpson and by Richards and Perri is simply this: Students trained to become independent from teachers—and from academic counselors—continue to do acceptable academic work even after academic support itself ends. A hypothesis explaining some of the most troubling aspects of academic support programs thus now seems possible. Many students initially get into academic trouble in college and law school because teachers at these institutions want students to learn independently and these students cannot do that. Counseled students demonstrate short term grade improve-

84. *Id.* at 622.
85. *See id.*
86. *Id.* at 622-23.
87. *Id.* at 623.
88. *Id.* at 623-24.

ment while in counseling programs because grade improvement satisfies the demands of the dependency relationship that develops between counseled and counselor.[89] Once counseling and the dependency relationship between counselor and counseled end, however, failure occurs again because students have not learned to function on their own. Hence, academically troubled students must be taught to become independent learners.

Notwithstanding the considerable value of instructional techniques for promoting independent learning described by Richards and Perri and by Nist and Simpson, an even better technique for promoting such learning exists. This tool is the classic law school "Case Method."

IV. Legal Education Techniques and Independent Learning

Almost everyone has heard about the case method of classroom instruction used in law schools. Very few people, however, understand the educational theory that lies behind the case method.

Ironically, the case method of classroom instruction originated outside of the law school context.[90] Until about the middle of the nineteenth century, most students in higher education, whether it was undergraduate education or the then incipient formal legal education, principally learned by reading treatises and by listening to lectures.[91] Charles Eliot, a prominent nineteenth century educator, disapproved of that approach. Eliot believed that students learned best when they actively participated, particularly when they conducted experiments in laboratories. More importantly, Eliot believed that students could

89. *See generally* Haynes & Johnson, *Self- and Teacher Expectancy Effects on Academic Performance of College Students Enrolled in an Academic Reinforcement Program*, 20 AM. EDUC. RES. J. 511 (1983) (suggesting motivation of students by directly influencing their self-expectations rather than by teacher expectations).

90. For a description of the development of the case method, see R. STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850'S TO THE 1980'S 3-84 (1983); Chase, *American Legal Education Since 1885: The Case of the Missing Modern*, 30 N.Y.L SCH. L. REV. 519, 519-21 (1985); Schlegel, *Between the Harvard Founders and the American Legal Realists: The Professionalization of the American Law Professor*, 35 J. LEGAL EDUC. 311, 314 (1985); *see also* Redmount, *The Future of Legal Education: Perspectives and Prescriptions*, 30 N.Y.L. SCH. L. REV. 561 (1985) (addressing inadequacies in current legal education); Shreve, *Two Cheers for the Case Method*, 30 N.Y.L. SCH. L. REV. 601 (1985) (describing advantages of case method); Stevens, *Legal Education: The Challenge of the Past*, 30 N.Y.L. SCH. L. REV. 475 (1985) (survey of current trends in legal education); Teich, *Research on American Law Teaching: Is There a Case Against the Case System?*, 36 J. LEGAL EDUC. 167 (1986) (summary of research on various teaching techniques); Woodward, *Justice Through Law—Historico' Dimensions of the American Law School*, 34 J. LEGAL EDUC. 345 (1984) (describing historical developments of the modern law school).

91. *See* R. STEVENS, *supra* note 90, at 35.

overcome their traditional dependency on teachers only by working in laboratories.[92]

In 1870, Eliot became the president of Harvard University. He appointed one of his disciples, Christopher Columbus Langdell, to be the Dean of Harvard's law school.[93] This appointment set the stage for developments in legal education's history that still are unfolding today. Langdell believed, as did Eliot, that students best learned about science and how to be scientists by working in laboratories with raw data, and not by reading treatises and listening to lectures about scientific laws.[94] Langdell, however, went further than Eliot in his theories of teaching. Law students, Langdell realized, also would learn better by working with raw data, rather than by reading treatises and listening to lectures. Langdell thus decided to create laboratory conditions for law students.[95]

Once Langdell envisioned the idea of laboratory courses in the law schools, he had to find raw materials with which his students could experiment. Langdell found those materials in the printed reports of appellate court cases. In 1871, Langdell published *A Selection of Cases of the Law of Contracts,* which contained reprints of appellate court cases.[96] Langdell required his students to read these cases, analyze them, and then derive general rules or principles of law from them.[97]

Langdell's laboratory method of legal instruction, or the "Classic Case Method," was an astonishing advance in teaching technique. Indeed, a prominent historian of legal education recently called Langdell's method the only real intellectual contribution that American lawyers have made to legal education in the last hundred and twenty years.[98] Like all inventions, Langdell's Classic Case Method generated decidedly mixed reactions. After encountering an initial but short lived campaign of resistance,[99] the case method swept through the world of legal educa-

92. *See* C. ELIOT, A MANUAL OF INORGANIC CHEMISTRY preface (1867).

93. *See* 2 C. WARREN, HISTORY OF THE HARVARD LAW SCHOOL 359-61 (Da Capo Press ed. 1970).

94. *See* Chase, *supra* note 90, at 521.

95. *See id.* at 521-63; Redmount, *supra* note 90, at 562-63; Schlegel, *supra* note 90, at 314.

96. C. LANGDELL, A SELECTION OF CASES OF THE LAW OF CONTRACTS (1871).

97. *See* C. WARREN, *supra* note 93, at 372-75.

98. Stevens, *The Limitations of a Triptych Vision: A Critical Response,* 30 N.Y.L. SCH. L. REV. 543, 544 (1985).

99. Theodore Dwight, the Dean of Columbia University's law school in the late 19th century, was the most prominent early critic of Langdell. Dwight believed, as many modern critics of the case method now believe, that Langdell's system did not train students to be practicing lawyers. Rather, it trained them only how to be academic lawyers. *See* Stevens, *Legal Education: The Challenge of the Past,* 30 N.Y. L. SCH. L. REV. 475, 475-82 (1985). Dwight also pointed out, as many modern critics also note, that many legal educators who use the case method essentially have no experience as practicing lawyers. *Id.* at 481-82.

tion in the United States, bringing with it tremendous changes in legal education. Most importantly, because the case method is an academic method of learning, its use destroyed the apprenticeship system of lawyer training.

Ironically, Langdell's early opponents in many ways prevailed. Experience suggests that very few modern legal educators actually use the Classic Case Method, although virtually all law school professors insist that they do. Most law teachers conduct their classes principally by asking questions about appellate court cases. Thus, they use a method of instruction that properly can be called the "case method," but it is not the *classic* case method. The modern day case method may seem similar to the Classic Case Method, but the new method does not have the character and bite of the old.[100]

C.A. Peairs provides perhaps the best description of the educational purpose of the Classic Case Method of instruction and the differences between the classic method and its modern successor.[101] In the following passage Peairs describes what a teacher of the Classic Case Method might give as an introductory lecture.

> "I tell you nothing here. Even the fact that I ask a question suggests nothing as to its answer. It does suggest that the point is perhaps significant: that it may be important to answer it. Your answers to these questions, and all you will know of the course, will rest on three sources:
>
> a. what some courts have said, or other primary authority;
>
> b. what the principal writers in the field have said: good secondary authority, of names known to and respected by the courts; and
>
> c. assertions of your fellow-students in class discussions. If you are sure of your answer on a given point, you have, of course, no need to labor it further; but if you are not quite sure of it, you are foolish if you do not go to authority on which you can rely. A suggested answer from one source you will check with others, unless you are quite secure in the soundness of your authority—perhaps a very loquacious, a very selfconfident, or a very popular fellow student?—which you have. From me, however, you have only two assurances: I have asked no question which I do not consider important to the subject, or at least pertinent in illuminating the path taken by student thought; and I deem it worth while to try to answer every question I have asked,

100. Most modern legal educators using the case method, for example, lecture during part of the class, usually to summarize material covered. In addition, most law school teachers frequently and willingly answer student questions about various substantive points of law. Furthermore, most modern law school "casebooks" fill in the gaps between appellate court decisions with notes and comments, which explain or clarify points made in the cases. Finally, most modern casebook authors edit the cases they include in their books.

101. Peairs, *An Essay on the Teaching of Law*, 12 J. LEGAL EDUC. 323 (1960).

> though to be sure not all can be answered with categorical certainty."[102]

Peairs, and Langdell before him, valued the Classic Case Method principally because it helped students learn studied substantive material and develop independent learning skills simultaneously.[103] Thus, college and law school academic counselors who master the techniques of the Classic Case Method should be able to help academically troubled students. Counselors that use this technique can help students learn important substantive ideas about study skills, time management, and motivation while simultaneously helping them develop independent learning skills.

A simple example illustrates how academic counselors trained in the use of the Classic Case Method might approach one aspect of a counseling program. Many academic counselors wish to help their students understand methods for dealing with a problem that educational psychologists call "test anxiety."[104] When addressing this problem, however, most academic counselors simply inform their students about test anxiety research and then ask students to discuss the issue in general.[105] Although these counselors provide students with a substantial amount of information about test anxiety, they still encourage student dependency because the counselor tries to solve the students' problems for them and does not force the students to solve the problems themselves.

Counselors trained in the Classic Case Method, however, would use a completely different approach. These counselors would not provide students with any summary information about test anxiety. Rather, several days before a planned discussion of this topic, such counselors would distribute social science research reports on test anxiety[106] and tell the students to prepare summaries of the reports. After receiving these reports, the students would have to engage in the kind of laboratory work

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102. *Id.* at 342-43.

103. *Id.* at 341.

104. *See* Dendato & Diener, *Effectiveness of Cognitive/Relaxation Therapy and Study-Skills Training in Reducing Self-Reported Anxiety and Improving the Academic Performance of Test-Anxious Students*, 33 J. COUNSELING PSYCHOLOGY 131, 131-32 (1986).

105. For test anxiety research, see Brown & Nelson, *Beyond the Uniformity Myth: A Comparison of Academically Successful and Unsuccessful Test Anxious Students*, 30 J. COUNSELING PSYCHOLOGY 367, 367-68 (1983). *See also* TEST ANXIETY: THEORY, RESEARCH AND APPLICATIONS (I. Sarason ed. 1980); N. WHITMAN, D. SPENDLOVE & C. CLARK, STUDENT STRESS: EFFECTS AND SOLUTIONS (1984); Allen, *The Behavioral Treatment of Test Anxiety: Therapeutic Innovations and Emerging Conceptual Challenges*, in PROGRESS IN BEHAVIOR MODIFICATION, VOLUME 9 (M. Hersen, R. Eisler & P. Miller eds. 1980).

106. *See, e.g.*, Galassi, Frierson & Sharer, *Behavior of High, Moderate and Low Test Anxious Students During Actual Testing Situations*, 49 J. CONSULTING & CLINICAL PSYCHOLOGY 51 (1981); Goldfried, Linehan & Smith, *Reduction of Test Anxiety Through Cognitive Restructuring*, 46 J. CONSULTING & CLINICAL PSYCHOLOGY 32 (1978).

envisioned by Langdell when he created the Classic Case Method of instruction. First, they would have to study raw materials—research reports rather than appellate court cases. From such study, students would have to derive general rules and ideas. During the ensuing discussions, the counselors would refuse to express an opinion or answer any student questions about the reports, perhaps deflecting those questions to other students for possible answers. By doing so, the counselors force the students to formulate their own solutions to their academic problems. This, in turn, produces independent learning skills.

Academic counselors also might help develop independent learning skills in students and simultaneously help students learn substantive material, by using a variation of the Classic Case Method. Classic Case Method teachers frequently provide students with examples of appellate court cases that contain similar facts but reach opposite conclusions.[107] These teachers then ask the students to "reconcile" the cases, that is, to find some common theme or policy that explains the differing results.[108]

Academic counselors also could ask students to reconcile paired research reports. For example, counselors might give the students a report prepared by Daniel Kirschenbaum and Michael Perri, researchers who are closely identified with the counseling field. This report, *Improving Academic Competence in Adults: A Review of Recent Research,* concluded that academic counseling programs, at least carefully structured ones, are effective.[109] Counselors then might ask students to reconcile that report with a similar report prepared by three University of Michigan researchers who are not so closely identified with the academic counseling field. This report, *College Programs for High-Risk and Disadvantaged Students: A Meta-Analysis of Findings,* concluded that academic support programs are not effective.[110] Counselors who refused to

107. For example, in a notorious pair of contracts law cases, two famous judges reached different conclusions about how to handle mistakes made in connection with the submission of irrevocable construction contract bids. In both cases, bidders discovered mistakes in their bids subsequent to submission. *See* James Baird Co. v. Gimbel Bros., 64 F.2d 344, 346 (2d Cir. 1933) (Hand, J.); Drennan v. Star Paving Co., 51 Cal. 2d 409, 416, 333 P.2d 757, 761 (1958) (Traynor, J.).

108. For a lengthy discussion of the lawyering skill of reconciling, and several outrageous examples of it, see Wangerin, *Skills Training in "Legal Analysis": A Systematic Approach,* 40 U. MIAMI L. REV. 409 (1986).

109. Kirschenbaum & Perri, *Improving Academic Competence in Adults: A Review of Recent Research,* 29 J. COUNSELING PSYCHOLOGY 76, 90-91 (1982). Carefully structured programs must have three components. First, the students must have some control over the counseling intervention, which is important for motivation. Second, counseling programs must stress study skills. Third, students must develop skills of protracted self-control, that is, self-monitoring, environment control, planning, and problem solving.

110. Kulik, Kulik & Shwalb, *College Programs for High-Risk and Disadvantaged Students:*

comment on how the reports might be reconciled would encourage students to learn how to work independently. Because the teachers would not be the principal source of answers and authority, the students would have to become their own teachers, their own sources of authority. When this occurs, the students become independent learners. Not coincidentally, the use of this teaching technique also would help students learn important substantive ideas about studying well.

Academic counselors can use another law school variation of the Classic Case Method, the "hypotheticals" method, to teach substantive ideas about learning and studying while promoting the development of independent learning. This method of teaching helps students develop the problem solving skills that students who hope to achieve long term grade improvement must possess.

Teachers who use the hypotheticals method engage their students in a kind of multi-step dance. First, these teachers ask their students to discuss an appellate court decision in detail and to articulate the legal principle or rule of the case. This step in the dance calls for inductive reasoning, that is, movement from the specific to the general. Second, these teachers propose a set of hypothetical facts to the students, perhaps changing the facts of the studied case slightly. (Frequently teachers draw this hypothetical set of facts from a different appellate court decision.) The teachers then pose a question calling for deductive reasoning, that is, movement from the general to the specific: "Can you apply the rule to this new set of facts?" To answer this question, students must apply deductively the rule that they have derived inductively from the case to the new facts. At this stage in the dance, the rule produces a reasonable result when applied to the hypothetical facts. Thus, students can respond easily. As soon as they respond, however, teachers take the third step. They give another set of hypothetical facts, a set of facts that varies only slightly from the previous hypothetical. Then the teachers ask another question calling for deduction: "Please apply that rule to these new facts."

Suddenly, the students discover that the rule does not readily produce an acceptable result. Nevertheless, when stretched, the rule still works. Thus, the students can still respond. The teachers then present yet another set of hypothetical facts. Now the rule breaks down. When applied to this new set of facts, the rule produces an unreasonable result. At this point, the law school teaching dance begins again with the

A Meta-Analysis of Findings, 53 REV. EDUC. RES. 397, 407-09 (1983). These researchers concluded that, over a period of four years in college, counseled students at most gained one letter grade improvements in eight courses—for example, C's to B's. *Id.* at 408.

dance's first step. The teachers ask the students to try to formulate inductively a new general rule. Thus, the teaching dance goes on in a seemingly endless cycle.

The hypotheticals method may be used as part of the classroom component of academic support programs. A simple example shows how. Many counseling theorists believe that high risk and probationary students study poorly because they allow their minds to wander. Distractions constantly break concentration. Teachers wishing to use the hypotheticals method of classroom instruction, therefore, might begin by asking students to read a research report describing grades received by students who studied in quiet rooms as opposed to grades received by students who studied while watching television or listening to records.[111] Teachers then could ask students to extract a general principle from the report. Most students, of course, will respond that students should not watch television or listen to records while studying. Once students lay out this basic rule, however, the hypotheticals dance could start. "Well, assume that you are studying with the television and the stereo turned off. You have a poster on your wall, however. Does your rule handle that?" The students will have to acknowledge that their rule does not, and that perhaps the poster should come down. Then another hypothetical: "The phone rings. A friend wants to give you the latest gossip." The student will respond, of course, that the phone should not be answered, or that the conversation should be very brief. Then, the next question. "What if your mother is calling?" The student stumbles. Then another question. "The Dean is calling." Gradually, students will see that their original rule of turning off the television and radio is far too narrow. The counselor then might suggest the formulation of a new general rule from the report. Students will create a new rule about the need to eliminate distractions.

Of course, as soon as students create a new general rule, new hypotheticals start. "You've got the phone and the television and the stereo turned off. Posters are all down. Somebody ignores the 'Do Not Disturb' sign on your door and knocks. Does your rule handle this?" "Well, no," the student responds, desperately hoping that the questions will end. Another question. "There is a Coke machine down the hall and you're thirsty. Should you get a soda? Does your rule handle this?" Ultimately, this discussion will lead students to a realization that they should study in the library because distractions cannot be eliminated anywhere else. Triumphant, students will announce that this is the real

111. *See, e.g.*, Etaugh & Ptasnik, *Effects of Studying to Music and Post Study Relaxation on Reading Comprehension*, in PERCEPTUAL AND MOTOR SKILLS 141 (1982).

rule of the report. And then another hypothetical. "You're in the library studying. You've been there for three hours. You suddenly find yourself dozing. Does your rule handle that?" The discussion, of course, now shifts again, moving beyond the idea of distractions. "Are distractions really at fault, or are you?"

Most students participating in academic support programs initially may resist the use of the Classic Case Method or its variations, such as the reconciling or hypothetical method. This resistance will duplicate the resistance shown by generations of law students trained with these same methods. Counseled students, like generations of law students before them, will complain terribly about teachers who refuse to answer questions about the substance of the materials they read.[112]

Academic counselors should persevere, however, for two reasons. First, the results obtained by the use of these methods may far outweigh the costs incurred. Students exposed to these methods learn the substantive material, and they gradually realize that they do not need teachers to explain everything to them. In short, they develop independent learning skills. Second, generations of law school teachers can attest that students' initial resistance to use of these techniques begins to break down after eight to ten weeks because students realize that they are becoming independent of their teachers. Not surprisingly, they often like that sense of independence. Ultimately, students often single out the teachers who use these techniques for the highest praise. In short, strong resistance to use of the Classic Case Method and its variants at the beginning of the term frequently becomes strenuous praise near the end.

Conclusion

Several years before he completed his study of undergraduate academic counseling programs, Professor Roueche wrote about a high school teacher who had been asked to work with a large group of students who read very poorly.[113] This teacher set up a summer reading program for these students. Her goal? To raise their reading skills no less than three full levels. Everybody laughed when she announced this goal. Impossible, they said. Everybody was wrong. She succeeded.[114]

112. Many high risk students do not perform well with nondirective approaches. They do better when answers are given directly to them. *See* Hudesman, Aramides, Loveday, Wendell & Griemsmann, *Counseling Style: Its Impact on the Academic Performance of College Students in Special Programs*, 27 J. C. STUDENT PERSONNEL 250, 250 (1986).

113. J. ROUECHE & J. SNOW, OVERCOMING LEARNING PROBLEMS: A GUIDE TO DEVELOPMENTAL EDUCATION IN COLLEGE 129 (1971).

114. *Id.*

Later, when asked about her philosophy for working with academically troubled students, she answered simply. "First of all, you have to want to; second, you must decide to!"[115]

In terms of wanting to help high risk and probationary college and law school students, many problems still exist. Although most undergraduate educators acknowledge the value of academic counseling programs, few legal educators do the same. Indeed, legal educators seem to be about a generation behind undergraduate educators. Arguments against providing help for academically troubled students that echoed through college halls twenty years ago now reverberate in law school corridors. Thus, at the law school level, the desire to help is still in doubt.

The decision to help high risk and probationary undergraduate and law students poses problems for counselors and for theorists working in a field of education heretofore completely separate from academic counseling. Although a few researchers have attempted systematically to address the problem of short term grade improvement/long term failure for counseled students, much work remains. This paper has suggested, following hints in the counseling literature, that promotion of independent learning skills may be an important key to producing long term grade improvement in counseled students. If that suggestion has value, counseling researchers must gain familiarity with the work of independent learning theorists and use that work in their own research. Likewise, independent learning theorists must no longer ignore the existence of high risk and probationary students. Finally, anyone interested in promoting independent learning skills in college and law students must recognize the value of certain law school teaching techniques that simultaneously teach students substance and independence.

Professor Peairs, a theorist about the Classic Case Method, said more about academic counseling and independent learning than many theorists in those fields. "[W]e start with a basic belief, that students can be usefully taught . . . not by telling them truths, but by asking them questions."[116] The Classic Case Method of teaching, he continued, is based on the generally accepted notion that it is better "to teach the student to think than to teach him the truths which are not told him."[117] Peairs concluded with a thought that might serve as a link between legal educators, academic support program proponents, and independent learning theorists: "[S]tudents do their best learning by themselves, read-

115. *Id.*
116. Peairs, *supra* note 101, at 341-420.
117. *Id.*

ing the same authorities, primary and secondary, that they will use as they continue to learn . . . after graduation. From this, it follows that the best teaching process is that which most effectively and extensively induces this reading by the student."[118]

118. *Id.* at 341-42.